

§ 170.454

environmental analysis and after consultation with the affected tribe(s) and the appropriate Secretary(s); and
(d) Construction easements.

DESIGN

§ 170.454 What design standards are used in the IRR Program?

(a) Appendix B to this subpart lists design standards that BIA may use for the IRR program.

(b) BIA may also use FHWA-approved State or tribal design standards.

(c) Tribes may propose road and bridge design standards to be used in the IRR Program that are consistent with or exceed applicable Federal standards. The standards may be negotiated between BIA and the tribe and included in a self-determination contract or self-governance agreement.

§ 170.455 How are design standards used in IRR projects?

The standards in this section must be applied to each construction project consistent with a minimum 20-year design life for highway projects and 75-year design life for highway bridges. The design of IRR projects must take into consideration:

(a) The existing and planned future use of the IRR transportation facility in a manner that is conducive to safety, durability, and economy of maintenance;

(b) The particular needs of each locality, and the environmental, scenic, historic, aesthetic, community, and other cultural values and mobility needs in a cost-effective manner; and

(c) Access and accommodation for other modes of transportation.

§ 170.456 When can a tribe request an exception from the design standards?

A tribe can request an exception from the design standards in Appendix B of this subpart under the conditions in this section. The tribe must submit its request for a design exception to the BIA Regional Office for approval. If the BIA Regional Office has design exception approval authority within their IRR Stewardship Plan with FHWA, they may approve or decline the request; otherwise BIA forwards the request to FHWA. The engineer of

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record must submit written documentation with appropriate supporting data, sketches, details, and justification based on engineering analysis.

(a) FHWA or BIA may grant exceptions for:

(1) Experimental features on projects; and

(2) Projects where conditions warrant that exceptions be made.

(b) FHWA or BIA can approve a project design that does not conform to the minimum criteria only after giving due consideration to all project conditions, such as:

(1) Maximum service and safety benefits for the dollar invested;

(2) Compatibility with adjacent features; and

(3) Probable time before reconstruction of the project due to changed conditions or transportation demands.

(c) FHWA or BIA have 30 days from receiving the request to approve or decline the exception.

§ 170.457 Can a tribe appeal a denial?

Yes. If BIA denies a design exception request made by a tribe, the decision may be appealed to FHWA. Tribes may appeal the denial of a design exception to: FHWA, 400 7th St., SW., HFL-1, Washington, DC 20590. If FHWA denies a design exception, the tribe may appeal the decision to the next higher level of review within the Department of Transportation at the Office of the FHWA Administrator, 400 7th Street, SW., HOA-1, Washington, DC 20590.

REVIEW AND APPROVAL OF PLANS, SPECIFICATIONS, AND ESTIMATES

§ 170.460 What must a project package include?

(a) The minimum requirements for a project package are:

(1) Plans;

(2) Specifications; and

(3) Estimates.

(b) In order to receive project approval the following additional items are required:

(1) A tribal resolution or other authorized document supporting the project;

(2) Right-of-way clearances;

(3) Required environmental, archeological, and cultural clearances; and